

MINUTES
HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR
Room B-8 - Civic Center
2000 Main Street
Huntington Beach California

WEDNESDAY, APRIL 25, 2007 - 1:30 P.M.

ZONING ADMINISTRATOR: Mary Beth Broeren

STAFF MEMBER: Tess Nguyen, Rami Talleh, Judy Demers,
Carmen Borruso (recording secretary)

MINUTES: March 28, 2007 (continued from April 11, 2007 meeting)
April 4, 2007

APPROVED

ORAL COMMUNICATION: **NONE**

ITEM 1: CONDITIONAL USE PERMIT NO. 2007-001 (AUSTIN RESIDENCE):

APPLICANT: Jon Austin

REQUEST: To permit the construction of a 367 sq. ft. rooftop deck above the second story of an existing single family residence with an overall building height of 33 feet.

LOCATION: 22151 Malibu Lane (east side of Malibu Lane, between Banning Avenue and Brookhurst Street)

PROJECT PLANNER: Tess Nguyen

Tess Nguyen, Staff Planner, displayed project plans and photographs and stated the purpose, location, zoning, and surrounding uses of the requested project. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary, emphasizing that the project meets all development standards.

Ms. Nguyen stated that she received three inquiries and one letter from property owners across the flood control channel concerned with privacy issues. Staff indicated that the rooftop deck was advertised incorrectly in the legal notice as 600 sq. ft. The actual size is 367 sq. ft.

Staff recommended approval of the request based upon the suggested findings and subject to conditions of approval as presented in the executive summary.

Mary Beth Broeren, Zoning Administrator, confirmed with staff that the roof-top deck orientation is in compliance with all code requirements.

Ms. Broeren stated that she had reviewed the email that was received yesterday from Mr. Scott, 22032 Capistrano Lane.

THE PUBLIC HEARING WAS OPENED.

Donna Fox, 9261 Christine Drive, neighboring property owner, spoke in opposition to the project stating her main concern was the loss of privacy for herself and her neighbors on the other side of the channel.

Tony Sanchez, 9241 Christine Drive, neighboring property owner across the channel, spoke in opposition to the project. Mr. Sanchez indicated he had reviewed the plans with staff and his main concern was loss of privacy.

THERE WERE NO PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.

Ms. Broeren confirmed with staff that the distance between the project site and homes across the channel is approximately 150 ft. Staff also indicated that the proposed deck is setback 24 ft. from the rear property line for a total separation of 175 ft. Staff verified that Mr. Sanchez and Mrs. Fox's homes are approximately 265 ft. away from the subject site.

Mr. Jon Austin, applicant, stated that photographs were provided of nearby residential properties with third floor decks.

Ms. Broeren stated that impacts to all homes surrounding a proposed project site are considered. Ms. Broeren stated that when dwellings are separated by over 250 ft. it's very difficult to see into a neighboring home and explained that privacy is maintained across the front yard where homes are separated by approximately 100 ft. She stated that the separation provided by the existing channel and the rear yard provides adequate separation.

Ms. Broeren stated that she was going to approve the request for the aforementioned reasons and the fact that the project complies with code and is consistent with development seen throughout the City. She added the following language to Finding No.1:

"The homes located across the channel are a minimum of 150 ft. away."

Ms. Broeren concluded that she did not feel there was an invasion of privacy and stated that the separation is sufficient.

CONDITIONAL USE PERMIT NO. 2007-001 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15303 of the CEQA Guidelines, because the project consists of an addition to an existing single-family residence in a residential zone.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2007-001

1. Conditional Use Permit No. 2007-001 for the construction of 367 sq. ft. rooftop deck above the second story to an existing single family residence with an overall height of 33 ft will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed rooftop deck will be located approximately in the center of the lot. The deck will be setback approximately 19 feet from the nearest property line and screened from view on two sides by the second-story roof. The location of the rooftop deck does not allow users to have a clear line of sight onto adjacent properties. In addition, no residential property exists to the rear of the subject site because the property abuts the Orange County Flood Channel. The homes located across the flood channel are at a minimum of 150 feet away. Accordingly, the proposed deck will not significantly impact privacy on abutting properties.
2. The conditional use permit will be compatible with surrounding uses consisting of single-family homes because the two-story residence is designed to be comparable to other two-story homes in the vicinity. The home is designed as a two-story residence with the rooftop deck above the second story which is within the height and setback limitations identified in the Zoning Code. The rooftop deck has substantial setbacks from the building exterior and is screened by the second story roof to insure privacy for adjacent properties.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The project complies with the maximum building height, maximum lot coverage, and minimum building setbacks. Rooftop decks above the second story are allowed in the base zoning district with approval of a conditional use permit. The proposed deck will be setback a minimum of five feet from the second-story façade on all sides as required by the HBZSO.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RL-7 (Low Density Residential—7 units per acre) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:
 - a. LU 9.2.1b: Use of building heights, grade elevations, orientation, and bulk that are compatible with the surrounding development;
 - b. LU 9.2.1d: Maintenance of privacy on abutting residences.

The development will comply with maximum building height permitted in the RL zone. The proposed rooftop deck above the second story will be located in the approximate center of the lot with substantial setbacks from the building exterior, thus minimizing building massing and impacts to privacy on adjoining properties. The proposed deck will be architecturally integrated into the design of the house, screened from view on two sides by the second-story roof, and not visible from the surrounding properties.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2007-001:

The site plan, floor plans, and elevations received and dated April 3, 2007 shall be the conceptually approved design.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

THE MEETING WAS ADJOURNED AT 2:10PM BY THE ZONING ADMINISTRATOR TO THE NEXT REGULARLY SCHEDULED MEETING OF THE ZONING ADMINISTRATOR ON WEDNESDAY, MAY 16, 2007, AT 1:30 PM.

Mary Beth Broeren
Zoning Administrator

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